

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

MICHAEL ROBINSON,

Plaintiff.

v.

NORTHUMBERLAND COUNTY  
CHILDREN AND YOUTH, *et al.*,

Defendants.

No. 4:17-CV-01321

(Judge Brann)

**ORDER**

**MARCH 28, 2018**

Before the Court for disposition is a Report and Recommendation filed by Magistrate Judge William I. Arbuckle, III on March 5, 2018.<sup>1</sup> In this Report, Magistrate Judge Arbuckle granted Plaintiff Michael Robinson's Motion for leave to proceed *in forma pauperis*, but recommended that (1) the complaint be dismissed under 28 U.S.C. § 1915(e) without prejudice to the Plaintiff endeavoring to correct the defects cited in the report within twenty (20) days of this Order, and (2) Plaintiff's Motions to Produce Accuser (ECF No. 6) and to Appoint Counsel (ECF No. 10) be dismissed as moot.<sup>2</sup> No objections to this Report and Recommendation have since been filed.

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<sup>1</sup> ECF No. 11.

<sup>2</sup> *Id.*

Upon designation, a magistrate judge may “conduct hearings, including evidentiary hearings, and . . . submit to a judge of the court proposed findings of fact and recommendations.”<sup>3</sup> Once filed, this Report and Recommendation is disseminated to the parties in the case who then have the opportunity to file written objections.<sup>4</sup> When objections are timely filed, the District Court must conduct a *de novo* review of those portions of the report to which objections are made.<sup>5</sup> Although the standard of review for objections is *de novo*, the extent of review lies within the discretion of the District Court, and the court may otherwise rely on the recommendations of the magistrate judge to the extent it deems proper.<sup>6</sup>

For portions of the Report and Recommendation to which no objection is made, the court should, as a matter of good practice, “satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.”<sup>7</sup>

Regardless of whether timely objections are made by a party, the District Court

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<sup>3</sup> 28 U.S.C. § 636(b)(1)(B).

<sup>4</sup> 28 U.S.C. § 636(b)(1).

<sup>5</sup> 28 U.S.C. § 636(b)(1); *Brown v. Astrue*, 649 F.3d 193, 195 (3d Cir. 2011).

<sup>6</sup> *Rieder v. Apfel*, 115 F.Supp.2d 496, 499 (M.D.Pa. 2000) (citing *United States v. Raddatz*, 447 U.S. 667, 676 (1980)).

<sup>7</sup> Fed. R. Civ. P. 72(b), advisory committee notes; *see also Univac Dental Co. v. Dentsply Intern., Inc.*, 702 F.Supp.2d 465, 469 (M.D.Pa. 2010) (citing *Henderson v. Carlson*, 812 F.2d 874, 878 (3d Cir. 1987)) (explaining that judges should give some review to every report and recommendation).

may accept, not accept, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.<sup>8</sup>

Having reviewed the analysis of Magistrate Judge Arbuckle, I am satisfied that his screening analysis pursuant to 28 U.S.C. § 1915(e) is without clear error and should be adopted. Indeed, the Court is in agreement that dismissal is warranted (1), *in toto*, for violation of Federal Rule of Civil Procedure 8,<sup>9</sup> (2) against Northumberland County Children and Youth Services specifically pursuant to the Eleventh Amendment to the United States Constitution and a failure to plausibly allege *Monell* liability,<sup>10</sup> and (3) against defendant employees of the Northumberland County Children and Youth Services for failure to state individual actions giving rise to even an arguable civil rights violation.<sup>11</sup> Given that this fundamental failure to state a claim upon which relief can be granted mandates dismissal, I am in further agreement that Plaintiff's Motions to be Produce Accuser and to Appoint Counsel should be dismissed as moot at this time.

**AND NOW, therefore, IT IS HEREBY ORDERED** that:

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<sup>8</sup> 28 U.S.C. § 636(b)(1); Local Rule 72.31.

<sup>9</sup> See *Binsack v. Lackawanna County Prison*, 438 F.App'x. 158 (3d Cir. 2011).

<sup>10</sup> *Ciprich v. Luzerne County*, No. 15-CV-2364, 2017 WL 3782786, at \*8 (M.D.Pa. Mar. 24, 2017), *adopted by* 2017 WL 37909075 (M.D.Pa. Aug. 28, 2017); *Connick v. Thompson*, 536 U.S. 51 (2011).

<sup>11</sup> See *generally* Report and Recommendation (ECF No. 11).

1. Magistrate Judge Arbuckle's Report and Recommendation (ECF No. 11) is **ADOPTED** in its entirety;
2. The instant Complaint will be **DISMISSED WITHOUT PREJUDICE** to Plaintiff endeavoring to correct the defects cited in the report within **twenty (20) days of this Order**;
3. If no amended complaint is filed within that timeframe, the action will be summarily dismissed pursuant to Fed. R. Civ. P. 41(b).
4. Plaintiff's Motion to Produce Accuser (ECF No. 6) and Motion to Appoint Counsel (ECF No. 10) are **DISMISSED AS MOOT**.

BY THE COURT:

*s/ Matthew W. Brann*

Matthew W. Brann  
United States District Judge